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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,633	10/22/1999	MARK CHEE	A-68087-1/RMS/DCF	9821
	7590 10/16/2003		EXAMINER	
Astrid R. Spain McDermott, Will & Emery 4370 La Jolla Village Drive 7th floor San Diego, CA 92122			FORMAN, BETTY J	
			ART UNIT	PAPER NUMBER
			1634	

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09 425633

EXAMINER

ART UNIT

PAPER

1003

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**Commissioner for Patents**

The timely submission under 37 CFR 1.129(a) filed on 28 July 2003 is not fully responsive to the prior Office action because the response does not address the rejection of Claims 29-31, 42-43 and 46-48 under the judicially created doctrine of obviousness-type double patenting. Applicant merely requests that the rejection be held in abeyance until otherwise allowable subject matter is found. However, this request is deemed non-responsive to the rejection. Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

**BJ FORMAN, PH.D.  
PRIMARY EXAMINER**